IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11632 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

FIROJ ALIAS BHURIO YUSUFBHAI SHAIKH

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR J DAVE, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The order dated 27-9-2000 of the Commissioner of Police, Surat city under which the petitioner was detained as a bootlegger has been challenged inter-alia

on the ground that the copies of documents, statements of witnesses recorded under section 161 of Cr.P.C. in the criminal complaint have not been supplied to the petitioner.

#. Reply to the special civil application has not been filed by the detaining authority and as such these averments made by the petitioner in the petition stands uncontroverted. Reply to the special civil application on behalf of the State of Gujarat has been filed today in the court. I have gone through the reply of the State Government. Therein also it is not the defence of the State of Gujarat that copies of these documents have been given to the petitioner. It is a case where vital and important documents have not been given to the petitioner and I find sufficient merits in the grievance of the petitioner that he is deprived of his right of making effective representation as guaranteed to him under Article 22 (5) of the Constitution of India.

#. Only on this ground this petition succeeds and the same is allowed. The order of detention of the petitioner dated 27-9-2000 is quashed and set aside. The petitioner Firoj alias Bhurio Yusufbhai Shaikh, the detenu, at present in Bhavnagar District Prison, Bhavnagar be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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